

REMARKS

Status of the Claims

Claims 1-24, 26-28 and 30-45 are currently pending in the application. Claims 21-24, 26-28, 30-39 and 42-45 stand rejected. The Examiner objects to claim 31. Claims 1-20, 40 and 41 are withdrawn as being drawn to a non-elected invention. Claims 21-23 have been amended without prejudice or disclaimer. No new matter has been added by way of the present amendments. Reconsideration is respectfully requested.

Preliminary Amendment

The present Preliminary Amendment is submitted in response to the Examiner's comments on page 2 of the Advisory Action of March 11, 2008. The Examiner states that the limitation "an approximately 5500 base pair sequence comprising approximately nucleotides 57444 to 62927 of GenBank Accession No. AF 226688" constitutes "new matter" because the specification "fails to disclose 'approximately nucleotides 57444 to 62927' as part of any vector construct." (*See, Id., emphasis in Examiner's remarks*).

Although Applicants do not agree that the phrase "an approximately 5500 base pair sequence comprising approximately nucleotides 57444 to 62927 of GenBank Accession No. AF 226688" constitutes new matter, to expedite prosecution, this phrase has been amended in claims 21-23 to remove the term "approximately."

Therefore, Applicants believe the claims, at least as amended, are fully supported by the specification and do not recite "new matter." Entry of the present amendments are therefore respectfully requested.

As to the remaining outstanding rejections presented in the Office Action of October 31, 2007, Applicants rely on their response of January 31, 2008. That is, the Examiner is respectfully requested to first enter and consider the response of January 31, 2008 into the record before the present preliminary amendment. Applicants believe their response of January 31, 2008 addresses all other outstanding issues precluding allowance of the present claims.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

CONCLUSION

If the Examiner has any questions or comments, please contact Thomas J. Siepmann, Ph.D., Registration No. 57,374, at the offices of Birch, Stewart, Kolasch & Birch, LLP.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §1.16 or under §1.17; particularly, extension of time fees.

Dated: March 31, 2008

Respectfully submitted,

By  _____

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